

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

JOSEPH BIRCH,)	
)	
Plaintiff,)	C.A. No. 05-799 (JJF)
)	
v.)	
)	
E.I. DUPONT DE NEMOURS)	
& CO., INC.,)	
)	
Defendant.)	

ANSWER TO COMPLAINT

Defendant E. I. du Pont de Nemours and Co., Inc. ("DuPont") hereby responds to the Complaint filed in the above captioned matter as follows:

Jurisdiction

1. The allegations contained in this paragraph contain conclusions of law to which no responsive pleading is required. To the extent any facts are alleged in this paragraph to which a response is required, those allegations are denied as stated. DuPont specifically denies that Plaintiff was subject to any discriminatory conduct while an employee of DuPont.

2. The allegations contained in this paragraph contain conclusions of law to which no responsive pleading is required. To the extent any facts are alleged in this paragraph to which a response is required, those allegations are denied as stated.

3. The allegations contained in this paragraph contain conclusions of law to which no responsive pleading is required. To the extent any facts are alleged in this paragraph to which a response is required, those allegations are denied as stated.

4. The allegations contained in this paragraph contain conclusions of law to which no responsive pleading is required. To the extent any facts are alleged in this paragraph to which a response is required, those allegations are denied as stated.

Parties

5. DuPont is without knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph.

6. The allegations of this paragraph are admitted.

7. The allegations of this paragraph are denied.

8. The allegations contained in this paragraph contain conclusions of law to which no responsive pleading is required. To the extent any facts are alleged in this paragraph to which a response is required, those allegations are denied as stated.

Allegations of Fact

9. The allegations of this paragraph are denied as stated.

10. The allegations of this paragraph are denied as stated.

11. The allegations of this paragraph are denied as stated.

12. The allegations of this paragraph are denied.

13. The allegations of this paragraph are denied.

14. Each and every allegation contained in this paragraph is denied.

15. The allegations of this paragraph are denied.

16. The allegations of this paragraph are denied.

17. The allegations of this paragraph are denied.

18. The allegations of this paragraph are denied.

19. The allegations of this paragraph are denied.

20. The allegations of this paragraph are denied.
21. Each and every allegation contained in this paragraph is denied.

Count I : Title VII

22. DuPont incorporates its responses to paragraphs 1 through 21.
23. The allegations of this paragraph are denied.
24. The allegations of this paragraph are denied.
25. The allegations of this paragraph are denied.

FIRST AFFIRMATIVE DEFENSE

Plaintiff fails to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

Defendant's conduct toward and treatment of plaintiff was at all times based upon reasonable, legitimate, and non-discriminatory business reasons.

THIRD AFFIRMATIVE DEFENSE

Plaintiff was not subjected to any adverse employment action.

FOURTH AFFIRMATIVE DEFENSE

Plaintiff did not engage in any protected activity known by the Defendant.

FIFTH AFFIRMATIVE DEFENSE

Plaintiff has sustained no damages, no financial loss or any other injury.

SIXTH AFFIRMATIVE DEFENSE

Any injury allegedly suffered by plaintiff does not constitute emotional distress.

SEVENTH AFFIRMATIVE DEFENSE

Plaintiff is not entitled to punitive damages.

EIGHTH AFFIRMATIVE DEFENSE

Plaintiff has failed to mitigate any damages he alleged he has suffered.

NINETH AFFIRMATIVE DEFENSE

Defendant had an effective harassment, discrimination and retaliation policy in place at the time of the incidents set forth in the Complaint, which plaintiff failed to utilize to alleviate himself of the alleged harassing and/or discriminatory behavior.

TENTH AFFIRMATIVE DEFENSE

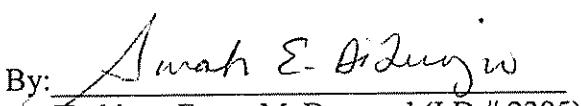
Some or all of plaintiff's claims are barred by the applicable statute of limitations.

WHEREFORE, DuPont respectfully requests that this Court enter judgment in its favor and against plaintiff:

- (a) Dismissing the complaint with prejudice;
- (b) Awarding it costs and attorneys fees; and
- (c) Granting such other and further relief as the Court deems just and proper.

Respectfully submitted,

POTTER ANDERSON & CORROON LLP

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Attorneys for Defendant
E.I. du Pont de Nemours and Company

Dated: June 20, 2006
737788

CERTIFICATE OF SERVICE

I, Sarah E. DiLuzio, hereby certify that on June 20, 2006, I electronically filed true and correct copies of the foregoing ANSWER TO COMPLAINT with the Clerk of the Court using CM/ECF which will send notification of such filing, which is available for viewing and downloading from CM/ECF, and mailed via first class mail two copies to the plaintiff at the following address:

Joseph Birch, Pro Se
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